

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMBER TILLEY and MICHAEL TILLEY, as next §
friend for their minor child, P.T., §

Plaintiff, §

v. §

PEASTER INDEPENDENT SCHOOL DISTRICT; §
JULIE WEST, individually and as an §
employee of Peaster Independent School District; §
DEBBIE VAN RITE, individually and as an §
employee of Peaster Independent School District; §
DOES I-XX, inclusive, §

Defendants. §

Case No.:4:12-cv-00408-Y

MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFFS

TO THE HONORABLE JUDGE OF SAID COURT:

JASON J. BACH of THE BACH LAW GROUP, PLLC files this motion to withdraw as counsel of record for Plaintiffs and respectfully states as follows:

In the instant action, the Plaintiffs signed a Retainer Agreement (hereinafter referred to as the “Agreement”) with The Bach Law Group, PLLC on November 28, 2011. This Agreement contains provisions regarding payment of fees and costs, communications between attorney and client, as well as the circumstances with which counsel may withdraw from representation. There now exists certain facts, which under the Agreement have seriously affected the attorney-client relationship impairing counsel’s ability to effectively represent Plaintiffs in this action.

Texas Rules of Professional Conduct 1.15 (b) states:

- (b) Except as stated in paragraph (a), a lawyer shall not withdraw from representing a client unless:
 - (1) Withdrawal can be accomplished without material adverse effect on the interests of the client;
 - (2) The client persists in a course of action involving the lawyers services that the lawyer reasonably believes is criminal or fraudulent;
 - (3) The client has used the lawyer's services to perpetrate a crime or fraud;
 - (4) A client insists upon taking action that the lawyer considers repugnant or with which the lawyer has fundamental disagreement;
 - (5) The client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services, including an obligation to pay the lawyer's fee as agreed, and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;
 - (6) The representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; *or*
 - (7) Other good cause for withdrawal exists.

Local Rule 83.12 provides that "an attorney desiring to withdraw in any case must file a motion to withdraw" and that the motion must

specify the reasons requiring withdrawal and provide the name and address of the succeeding attorney. If the succeeding attorney is not known, the motion must set forth the name, address, and telephone number of the client and either bear the client's signature approving withdrawal or state specifically why, after due diligence, the attorney was unable to obtain the client's signature.

N.D. Tex. Loc. R. 83.12a.

Unfortunately, the Plaintiffs have not met their financial obligations, as outlined in the Retainer Agreement, and have not maintained regular communication between themselves and movant, making it impossible for movant to effectively represent the best interests of Plaintiffs. Counsel has attempted on numerous occasions to communicate with Plaintiffs, concerning this case, by mail, telephone, and e-mail. A letter was sent to Plaintiffs on March 25, 2013, advising that if they did not honor the Retainer

Agreement, that this law firm would move to withdraw. Counsel received no response to this letter. Subsequent telephone calls were made, and voicemail messages left, but Plaintiffs have not returned those calls. Plaintiffs have failed to maintain their contractual and financial obligations thus causing undue hardship to this law firm, counsel have been unable to effectively represent the Plaintiffs in this action due to their lack of communication over several months, and counsel, therefore, respectfully requests this Honorable Court grant their Motion to Withdraw. Moreover, this case is not currently set for trial, or any other proceeding, thus ensuring that movant's withdrawal does not cause any undue delay.

Plaintiffs refused to respond to counsel's telephone calls and counsel's office has been unable to gain contact with Plaintiff's for several months, despite due diligence. Plaintiffs, Michael and Amber Tilley's last known address is 1117 S. Virginia Street, Crane, TX 79731 and last known phone number is (432) 202-8934.

A conference was held with Defendants' counsel on May 14, 2013, and they do not oppose movant's Motion to Withdraw as Counsel for Plaintiffs.

WHEREFORE, the undersigned counsel respectfully requests leave of this court to withdraw from representation of Plaintiff pursuant to LR. 83.12.

Respectfully submitted,

/s/ Jason J. Bach
JASON J. BACH
THE BACH LAW GROUP, PLLC
2802 Flintrock Trace, Suite 255
Austin, Texas 78738
(512) 879-3901
Texas State Bar No.: 24071556
Attorney for Plaintiff

CERTIFICATE OF CONFERENCE

This is to certify that on May 14, 2013, a conference was held with counsel for Defendants regarding the relief requested in this motion, Cynthia Hill, counsel for Defendants, does not oppose the relief requested.

/s/ Jason J. Bach
JASON J. BACH

NOTICE OF ELECTRONIC FILING

The undersigned counsel hereby certifies that he has electronically submitted for filing a true and correct copy of the above and foregoing in accordance with the Electronic Case Files System of the Northern District of Texas on the 15th day of May, 2013.

/s/ Jason J. Bach
JASON J. BACH

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of May, 2013, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

Cynthia L. Hill
306 W. 7th Street, Suite 1045
Fort Worth, Texas 76102

Michael and Amber Tilley
1117 S. Virginia Street
Crane, TX 79731

/s/ Sandra Herbstreit
An employee of The Bach Law Group, PLLC